

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

Case No. 05-44481

In the Matter of:

DELPHI CORPORATION, ET AL.,

Debtors.

U.S. Bankruptcy Court

One Bowling Green

New York, New York

October 22, 2009

10:02 AM

B E F O R E:

HON. ROBERT D. DRAIN

U.S. BANKRUPTCY JUDGE

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1 Supplemental Motion to Extend Deadline to Serve Process for
2 Avoidance Action Filed in Connection with Preservation of
3 Estate Claims Procedures Order

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5 Proposed Forty-Eighth Omnibus Hearing Agenda

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25 Transcribed by: Dena Page

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2 A P P E A R A N C E S :

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8 BY: KAYALYN A. MARAFIOTI, ESQ.

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P R O C E E D I N G S

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THE COURT: Please be seated. Okay. In re: Delphi
3 Corporation.

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MS. MARAFIOTI: Good morning, Your Honor. Kayalyn
5 Marafioti on behalf of DPH Holdings, Corp., which is the
6 reorganized company and successor to Delphi Corporation and all
7 but two of its affiliated debtors.

8

There are only a couple of items on the calendar
9 today, and the second of them is now moot. The motion of
10 Robert Backy (ph.) to enforce payment of his claim was
11 withdrawn yesterday. I think the appropriate pleadings were
12 filed. And so that matter is, effectively, settled.

13

And that leaves us with the debtors' motion under
14 Bankruptcy Rule -- well, Federal Rule 4(m) and its companion
15 bankruptcy rule to further extend the time to file service of
16 process in connection with a number of adversary proceedings
17 that were filed under seal a couple of years ago.

18

Your Honor, since we last made a motion seeking an
19 extension of time, quite a considerable amount of progress has
20 been made. In March, when we initially sought time that would
21 relate to thirty days past the consummation date, there were
22 some 752 complaints that might be brought. And you may recall
23 that under the modified plan, the debtors were required to
24 submit an exhibit naming, by adversary proceeding number, the
25 complaints that could be brought post-consummation. And that

1 number is now down to 177. So the pool of potential claims has
2 been reduced to less than one quarter of its original size.

3 But the reason we're here seeking a further extension
4 is that in the intense period that led up to the closing, it
5 simply wasn't possible for the debtors to winnow that number
6 down any further. And at the moment, under the master
7 disposition agreement, these claims inure solely to the benefit
8 of DPH Holdings, Corp. They did not move to the buyers. So
9 they're staying with the reorganized company.

10 And there is only one employee at DPH Holdings Corp.
11 He has a lot of things to do right now in trying to effectuate
12 all the transactions that were contemplated by the plan, and
13 certainly this issue is now very much at the center of his
14 attention, but he does need a bit more time.

15 Also, we understand that a different law firm will be
16 taking over those claims, if and to the extent that they are
17 brought, and so they need a bit of time to get up to speed as
18 well.

19 We think that those reasons form the basis for the
20 Court's extension of time, here. There has been no objection
21 filed. We did serve the motion in the usual fashion, and no
22 objections were lodged. So we would simply ask that the order
23 be entered as submitted.

24 THE COURT: Okay, and thirty days hasn't run since the
25 consummation of the plan, right?

1 MS. MARAFIOTI: That's correct. I think that would be
2 November 5 --

3 THE COURT: Okay.

4 MS. MARAFIOTI: -- would be the thirtieth day.

5 THE COURT: All right, so you're within the deadline.

6 MS. MARAFIOTI: Right.

7 THE COURT: I'll enter the order --

8 MS. MARAFIOTI: Okay, very good. Thank you, Your
9 Honor.

10 THE COURT: -- for the reasons stated in the motion.
11 As with the last ones, this is without prejudice to the rights
12 of these potential defendants to argue other defenses, other
13 than the running of the limitations period. And I think that
14 goes without saying. So this is just an extension of the time
15 to actually serve.

16 MS. MARAFIOTI: That's right, Your Honor.

17 THE COURT: So do you have a disc for me?

18 MS. MARAFIOTI: I believe we do. If I may approach
19 the bench, Your Honor.

20 THE COURT: Sure. Obviously, the debtors' decision to
21 proceed this way is borne out by the fact that the vast
22 majority of these cases have already been, effectively, booted
23 out. And as the motion states, the potential plaintiff, here,
24 certainly should have a little more time to analyze whether it
25 makes sense to bring the remaining lawsuits or only some of

1 them before DPH and the defendants incur additional costs.

2 Okay, thank you.

3 MS. MARAFIOTI: Thank you, Your Honor.

4 THE COURT: Okay.

5 (Proceedings concluded at 10:07 a.m.)

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4 RULINGS

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Supplemental Motion to 6 10

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Extend Deadline to Serve

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Process for Avoidance

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Action Granted

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2 C E R T I F I C A T I O N

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4 I, Dena Page, certify that the foregoing transcript is a true
5 and accurate record of the proceedings.

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8 Dena Page

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15 Date: October 23, 2009

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